

**Finding of No Significant Impact  
and  
Decision  
for  
Bird Damage Management in Kansas**

The U.S. Department of Agriculture (USDA), Animal and Plant Health Inspection Service (APHIS), Wildlife Services (WS) program responds to a variety of requests for assistance from individuals, organizations, and agencies experiencing damage caused by wildlife in Kansas. WS activities are conducted in cooperation with other federal, state, and local agencies, as well as private organizations and individuals. Ordinarily, according to APHIS procedures implementing the National Environmental Policy Act (NEPA), individual wildlife damage management (WDM) actions may be categorically excluded (7 CFR 372.5(c), 60 Fed. Reg. 6000-6003, 1995). However, WS prepared an environmental assessment (EA) to comply with APHIS NEPA implementing regulations and interagency agreements, to facilitate planning, interagency coordination, streamline program management, and to involve the public. The predecisional EA, released by the Kansas Wildlife Services Program (KWSP) in October 2007, documented the need for bird damage management (BDM) in Kansas and assessed potential impacts of various alternatives in relation to issues analyzed for responding to bird damage problems.

The proposed action was to allow the use of all BDM methods on any lands authorized in the State for the protection of agriculture, property, natural resources, and public safety. WS cooperates closely with the Kansas Department of Agriculture, Kansas Department of Wildlife and Parks (KDWP), and U.S. Fish and Wildlife Service (USFWS), and other agencies as necessary. In Kansas, most bird species are protected and managed by USFWS and KDWP. WS, under the necessary USFWS and KDWP permits, assists landowners, local governments, and organizations to resolve bird damage problems. WS would also assist public entities and Tribes with BDM when requested.

The EA evaluated ways that BDM could be carried out to resolve conflicts with bird species in Kansas. BDM is an important function of KWSP. Appendix C listed all bird species that have been found in Kansas with Table C1 listing those species that have the highest probability of coming into conflict with people in Kansas or being part of disease surveillance projects.

KWSP is a cooperatively funded and service oriented program. Before operational BDM is conducted, *Agreements for Control* or *KWSP Work Plans* must be signed by KWSP and the land owner/administrator. KWSP cooperates with private property owners and managers and with appropriate land and wildlife management agencies, as requested, with the goal of effectively and efficiently resolving wildlife damage problems in compliance with all applicable federal, state, and local laws.

**Public Involvement**

Three draft EAs were sent to agencies with professional expertise and regulatory authority covering different aspects of the EA for their review and comments. The comments that were received from these agencies were incorporated into the EA. Following interagency review of the draft EA, an EA was prepared and released to the public for a 48-day comment period. The resulting EA was sent directly October 17, 2007 to 44 interested parties on National and State mailing lists compiled from direct requests for WS EAs and previous NEPA document mailings including Native American Tribes, agencies, interested groups, and individuals. A "Notice of Availability" of the predecisional EA was published in the Topeka Capital Journal, the newspaper with statewide coverage, for 3 consecutive days, October 18-20, 2007. The EA was also made available for public review at the WS State Office.

4070 Fort Riley Blvd., Manhattan, KS 66502, or from requests received by personal contact, mail, or e-mail. However, the public did not request additional EAs as a result of the "Notice of Availability." The deadline for comments was December 7, 2007.

### **Public Comments**

No comment letters were received in response to the Notice of Availability or mailings for the predecisional EA.

### **Major Issues**

Cooperating agencies and the public helped identify a variety of issues deemed relevant to the scope of this EA. These issues were consolidated into the following 4 primary issues that were considered in detail in the predecisional EA:

- Effects of BDM on Target Bird Species Populations
- Effects of BDM on Nontarget Species, Including Threatened and Endangered (T&E) Species
- Effects of BDM on Public and Pet Safety and the Environment
- Effects of BDM on Aesthetics

### **Affected Environment**

The proposed action was to continue conducting BDM where birds are causing damage to agriculture, property, natural resources or public health and safety to private, public, and Tribal properties and resources in Kansas. BDM will only be conducted where the appropriate *Agreement for Control or Work Plan* is in place allowing BDM methods to be used and at the request of private landowners, the Kansas Department of Agriculture, Kansas Department of Wildlife and Parks, Tribe, or other agency that manages land or resources in need of protection. The current program's goal and responsibility is to provide service when requested within the constraints of available funding and manpower.

### **Alternatives Analyzed in Detail**

Four potential alternatives were developed to address the issues identified above. Three additional alternatives were considered, but not analyzed in detail. A detailed discussion of the anticipated effects of the alternatives on the objectives and issues is described in Chapter 4 of the EA. The following summary provides a brief description of each alternative and its anticipated impacts.

**Alternative 1. Integrated BDM Program (the Proposed Action/No Action Alternative).** The "No Action" Alternative is a procedural NEPA requirement (40 CFR 1502.14(d)), and is a viable and reasonable alternative that could be selected. Consideration of the No Action alternative is required under 40 CFR 1502.14(d), and provides a baseline or the environmental *status quo* for comparing the potential effects with the other alternatives. In this EA, the No Action Alternative is consistent with CEQ's definition.

In the case of the BDM EA for Kansas, the No Action Alternative was the equivalent of the Proposed Action Alternative and the Current Program. Alternative 1 was determined to benefit individual resource owners/managers, while resulting in only minimal levels of impact to target and nontarget wildlife populations including T&E species, very low risks to or conflicts with the public, pets, and the environment, minimal potential to disrupt the enjoyment of wildlife for the public, but positive improvements of the aesthetic values of properties and other resources damaged by birds. Current

lethal methods available for use are highly selective for target species and appear to present a balanced approach to the issue of humaneness when all facets of the issue are considered. WS responds to requests for BDM to protect human health and safety, agricultural crops and resources, property, natural resources, T&E species, and forestry in Kansas. To meet the goal, WS has the objective of responding to all requests from individual and corporate landowners, KDA, KDWP, other public agencies, and Tribes for assistance with, at a minimum, technical assistance or self-help advice, or, where appropriate and where cooperative or congressional funding is available, direct damage management assistance with professional WS Specialists conducting damage management actions. An Integrated WDM approach would be implemented which allows the use of any legal technique or method, used singly or in combination, to meet the needs of requestors for resolving conflicts with birds. Agricultural producers and others requesting assistance would be provided with information regarding the use of effective nonlethal and lethal techniques. In many situations, the implementation of nonlethal methods such as exclusion-type barriers would be the responsibility of the requestor to implement which means that, in those situations, the only function of WS would be to implement methods difficult for the requestor to implement, if determined to be necessary. BDM implemented by WS would be allowed in the State, when requested, on private property sites, public facilities or other locations where a need has been documented, upon completion of an *Agreement for Control or Work Plan*. In addition, lethal management actions would require a bird take permit from USFWS. All management actions would comply with appropriate Federal, state, and local laws.

**Alternative 2. Nonlethal BDM Only.** Under this alternative, WS would use only nonlethal methods to reduce damage by birds. Private landowners and state agencies would still have the option of implementing their own lethal control measures with the appropriate USFWS or KDWP permit. Risks to or conflicts with target species would be about the same as Alternative 1. Risks to public and pet safety, the environment, and nontarget and T&E species, on the whole, including private efforts at BDM, would probably be somewhat greater than Alternative 1, but slightly less than or about the same as Alternative 3 or 4 because WS would provide some assistance. Aesthetics would only be minimally affected under this alternative, but would only be slightly positive for resolving damage problems that affect aesthetics, less than under Alternative 1. The hypothetical use of illegal methods could occur as under Alternative 4, but be similar or slightly higher than under Alternative 1.

**Alternative 3. Technical Assistance with BDM Only.** Under this alternative, WS would not provide any direct control assistance to persons experiencing bird damage problems, but would instead provide advice, recommendations, and limited technical supplies and equipment. Lethal BDM would still occur, but would likely be conducted by persons with little or no experience and training, and with little oversight or supervision. Most persons conducting lethal BDM could obtain bird take permits from USFWS or KDWP. It is likely that BDM impacts on the target species, birds would be about the same as under Alternative 1. Risks to public and pet safety, the environment, and nontarget and T&E species would probably be more than Alternative 1, but only slightly more than or about the same as Alternative 2. The effects of BDM on the enjoyment of wildlife would probably be similar to the proposed action, but aesthetic values of resources damaged by birds would be more negatively affected this alternative than Alternative 1. Finally as discussed above, frustrated resource owners that have endured recurring losses may resort to the use of illegal or inappropriate techniques that could result in unknown consequences.

**Alternative 4. No Federal BDM Program.** This alternative would consist of no federal involvement in BDM in Kansas. Neither direct operational BDM nor technical assistance on BDM techniques would be available from WS. The majority of the formerly federal BDM assistance would be borne by KDA or KDWP. Private individuals could increase their efforts if KDA or KDWP were unable to respond adequately which means more BDM would be conducted by persons with less experience and training, and with little oversight or supervision. Risks to the public, pets, nontarget and T&E species,

and the environment would probably be greater than under Alternative 1. The enjoyment of wildlife would likely be only minimally affected under this alternative, but aesthetic values of resources damaged by birds would be the most negatively affected under this alternative than any of the other alternatives. Target species take would likely be less, but similar to the Proposed Action Alternative. Lastly, frustrated resource owners that have endured recurring losses may resort to the use of illegal or inappropriate techniques that could result in unknown consequences, and would likely be highest under this alternative.

#### **Alternatives Considered, but Not Analyzed in Detail**

1. Compensation for Bird Damage Losses
2. Short Term Eradication and Long Term Population Suppression
3. Use of Bird-Proof Feeders in Lieu of Lethal Control at Dairies and Cattle Feeding Facilities
4. Lethal BDM Only by WS
5. Relocation Rather Than Killing Problem Wildlife
6. Biological Control

#### **BDM Methods Not Considered for Use by WS**

1. Live Trap and Relocation
2. Population Stabilization through Mechanical Birth Control

#### **Comments Regarding the Alternative Selection**

No comments were received regarding alternative selection.

#### **Finding of No Significant Impact**

The Predecisional October 2007 EA is hereby accepted as the Final EA for BDM in Kansas. The analysis in the EA indicated that there will not be a significant impact, individually or cumulatively, on the quality of the human environment as a result of the proposed action. I agree with this conclusion and therefore find that an Environmental Impact Statement need not be prepared. This determination is based on the following factors:

1. BDM, as conducted by WS in Kansas, is not regional or national in scope. It is a statewide program and the scope was discussed in the EA. Under the proposed action, WS would continue to assist individuals and entities with bird damage as necessary. Even if WS were not involved, under state law most BDM would be conducted by private individuals or entities, or state and local government that are not subject to compliance with NEPA.
2. The proposed action would pose minimal risk to public and pet safety. No injuries to any member of the public are known to have resulted from WS BDM activities. In addition, a risk assessment has analyzed the use of BDM methods used by WS (USDA 1997) and these were found to pose only minimal risks to the public, pets, and nontarget wildlife species. This issue was addressed in the EA and the Proposed Action Alternative was found to have the least impacts.
3. There are no unique characteristics such as park lands, prime farm lands, wetlands, wild and scenic areas, or ecologically critical areas that would be significantly affected except positively.

4. The effects on the quality of the human environment are not highly controversial. Although there is some opposition to bird control, this action is not highly controversial in terms of size, nature, or effect.
5. Based on the analysis documented in the EA, the effects of the proposed BDM program on the human environment would not be significant. The effects of the activities under the proposed action are not highly uncertain and do not involve unique or unknown risks. If WS were unable to respond adequately under the other alternatives, a potential exists that could involve unique and unknown risks by non-professionals implementing BDM and frustrated property owners that have been ineffective with BDM methods resorting to the illegal or unwise use of BDM methods such as chemicals.
6. The proposed action would not establish a precedent for any future action with significant effects. All issues under the proposed action were discussed thoroughly, and these would not add cumulatively to any known future actions that would result in significant effects.
7. No significant cumulative effects on the quality of the human environment were identified through the EA.
8. The proposed BDM activities would not affect districts, sites, highways, structures, or objects listed in or eligible for listing in the National Register of Historic Places, nor would they likely cause any loss or destruction of significant scientific, cultural, or historical resources. If anything, the proposed action would have beneficial effects on these resources.
9. An evaluation of the proposed action and its effects on T&E species determined that no significant adverse effects would occur to such species. This is supported by the 1992 Biological Opinion (USDA 1997). KWSP reviewed the current list of T&E species in Kansas and provided justification for a no effect determination for all species not included in the 1992 USFWS Section 7 consultation. USFWS provided comments on the EA and concurred with KWSP on the potential effects of BDM to T&E species, as well as migratory birds.
10. The proposed action would be in compliance with all federal, state, and local laws imposed for the protection of the environment. The proposed activity does not violate the Endangered Species Act or any other law. As allowed by state and federal law, BDM could be conducted by private individuals or entities, or state and local agencies that are not subject to compliance with NEPA if WS were not involved.
11. There were no irreversible or irretrievable resource commitments identified in this EA, except for a minor consumption of fossil fuels for routine operations.

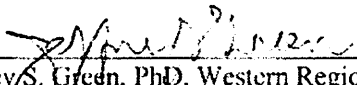
#### **Literature Cited**

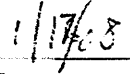
- U.S. Department of Agriculture (USDA). 1997. Animal Damage Control Program Final Environmental Impact Statement. (Revised) USDA-APHIS-WS, Operational Support Staff, 4700 River Rd., Unit 87, Room 2D-07.3, Riverdale, MD 20737-1234. 314 pp + App.

**Decision**

I have carefully reviewed the EA, interagency comments, and lack of public input resulting from the public involvement process. I believe the issues and objectives identified in the EA would be best addressed through implementation of Alternative 1 (the Proposed or No Action Alternative to continue the current program). Alternative 1 is therefore selected because (1) it offers the greatest chance at maximizing effectiveness and benefits to affected resource owners and managers within current program funding constraints; (2) it will maximize selectivity of methods available; (3) it offers a balanced approach to the issue of aesthetics when all facets of the issue are considered; (4) it will continue to minimize risk to or conflicts with the public and pets; and (5) it will minimize risks to nontarget and T&E species. KWSP will continue to use an IWD approach in compliance with all the applicable standard operating procedures listed in Chapter 3 of the EA.

For additional information regarding this decision, please contact Thomas Halstead, State Director. USDA-APHIS-WS, 4070 Fort Riley Blvd., Manhattan, KS 66502 - (785) 537-6855.

  
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Date